

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

LINDA L. MACK (a/k/a LYNNE L. MACK))	
)	
Plaintiff,)	
)	
v.)	No. 08 C 3127
)	
BARRY S. MARAM, in his official capacity)	Judge Kennelly
as Director of the Illinois Department of)	Magistrate Judge Cox
Healthcare and Family Services; and)	
CAROL L. ADAMS, in her official capacity)	
as Secretary of the Illinois Department of)	
Human Services;)	
)	
Defendants.)	

**DEFENDANT MARAM'S MOTION TO DISMISS
THE PLAINTIFF'S THIRD STATEMENT OF CLAIM**

NOW COMES Defendant BARRY S. MARAM, in his official capacity as Director of the Illinois Department of Healthcare and Family Services, by and through his attorney, LISA MADIGAN, Attorney General for the State of Illinois, and pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, hereby request this honorable Court to dismiss the Plaintiff's Third Statement of Claim from her "Verified Complaint." Defendant Maram states as follows:

1. This Court lacks subject-matter jurisdiction over the Plaintiff's Third Statement of Claim, which seeks relief for a purported violation of the Illinois Constitution of 1970, due to the Eleventh Amendment to the United States Constitution.

2. The Plaintiff's Third Statement of Claim fails to state a claim upon which relief can be granted because 42 U.S.C. § 1983 is not a proper vehicle for relief of a purported violation of the Illinois Constitution of 1970.

3. A memorandum of law in support of this motion has been contemporaneously filed with this motion.

WHEREFORE, for the foregoing reasons and the reasons set forth in Defendant Maram's Memorandum of Law in Support of His Motion to Dismiss Plaintiff's Third Statement of Claim, Defendant Maram respectfully requests this honorable Court dismiss the Plaintiff's Third Statement of Claim with prejudice pursuant to Rules 12(b)(1) and/or 12(b)(6) of the Federal Rules of Civil Procedure.

Respectfully submitted,

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By: /s/ John E. Huston
ASSISTANT ATTORNEY GENERAL

DATED: July 30, 2008

*Corey Wise, a second-year law student at Northwestern University, assisted in the research for and preparation of this motion.